
STATUTORY INSTRUMENTS

2020 No. 1436

The Customs (Origin of Chargeable Goods: Trade Preference Scheme) (EU Exit) Regulations 2020

Citation and commencement

1. These Regulations may be cited as the Customs (Origin of Chargeable Goods: Trade Preference Scheme) (EU Exit) Regulations 2020 and come into force on such day as the Treasury may by regulations under section 52 of the Act appoint.

Interpretation

2. In these Regulations—

“the Act” means the Taxation (Cross-border Trade) Act 2018;

“the Tariff Regulations” means the Customs Tariff (Establishment) (EU Exit) Regulations 2020(1);

“the TPS Regulations” means the Trade Preference Scheme (EU Exit) Regulations 2020(2);

“beneficiary country” means a “qualifying GSP country” which has the meaning given in regulation 4(1) of the TPS Regulations(3);

“Chapter” means a chapter of the Goods Classification Table;

“exporter”, in relation to goods for exportation or for use as stores, includes the shipper of the goods and any person performing in relation to an aircraft functions corresponding with those of a shipper;

“ex-works price” means—

(a) the price paid for the goods ex-works to the person who carried out the last processing (“P”), including the value of all the materials used and all other costs relating to their production except any internal taxes which are, or may be, repaid when the goods obtained are exported, or

(b) where the actual price paid does not reflect all the costs relating to the manufacturing of the goods which are actually incurred in the country of production, the sum of all those costs except any internal taxes which are, or may be, repaid when the goods obtained are exported,

and, in paragraph (a), if a manufacturer was subcontracted to carry out the last processing of the goods, the person who contracted with the manufacturer to carry out that processing is taken to be the person, P, for the purposes of that provision;

“Goods Classification Table” has the meaning given in regulation 1(2) of the Tariff Regulations;

“GSP” means the Generalised Scheme of Preferences established under regulation 3 of the TPS Regulations;

(1) [S.I. 2020/1430](#)

(2) [S.I. 2020/1438](#).

(3) For the meaning of “GSP country”, see regulation 2(1) of the TPS Regulations.

“heading” means a heading of the Goods Classification Table;

“material” means any ingredient, raw material, component or part, used in the manufacture of the goods;

“maximum content of non-originating materials” means the maximum content of such materials permitted under these Regulations for a stage of manufacture to be considered as an important stage of manufacture expressed as a percentage of—

- (a) the ex-works price of the good, or
- (b) the net weight of non-originating materials used which fall under a group of Chapters, a Chapter, a heading or a sub-heading specified in the table in Part 2 of Schedule 1 to these Regulations;

“net weight” means, in relation to goods, the weight of the goods themselves without packing materials or packing containers;

“non-originating material” means material not originating from the beneficiary country concerned;

“originating material” means material originating from the beneficiary country concerned;

“qualifying goods” means “qualifying GSP goods” which has the meaning given in regulation 4(2) of the TPS Regulations;

“regional group” means the group of countries or territories listed in Column 1, or the group of countries or territories listed in Column 2, of the table in Schedule 3;

“sub-heading” means a sub-heading of the Goods Classification Table;

“value”, in relation to a material, means—

- (a) the customs value, as determined in accordance with Article VII of GATT, at the time of importation of the material, or
- (b) if that value is not known and cannot be ascertained, the first price proved to have been paid to the satisfaction of an HMRC officer for the material in the United Kingdom or in the beneficiary country concerned,

and in paragraph (a), “GATT” means the General Agreement on Tariffs and Trade 1994 (GATT) signed in Geneva on 12th April 1979⁽⁴⁾ (being part of Annex 1A to the agreement establishing the World Trade Organization (WTO) signed in Marrakesh on 15th April 1994⁽⁵⁾).

Conditions that must be met for goods to be regarded as originating from a beneficiary country

3. Qualifying goods listed in Column 2 of the table in Part 2 of Schedule 1 are to be regarded as originating from a beneficiary country if—

- (a) the goods are wholly obtained in that beneficiary country in accordance with regulation 6;
- (b) where the goods are obtained in two or more countries or territories, that beneficiary country is the last country or territory in which processing of the goods which constitutes an important stage of manufacture has taken place in accordance with regulation 7;
- (c) the requirements set out in regulation 20(1) are met;
- (d) in the case of returned goods, the requirements set out in regulation 19 are met; and
- (e) the evidence requirements set out in regulation 4 are met.

(4) Cmnd 7662.

(5) Cmnd 2575.

Evidence required for goods to be regarded as originating from a beneficiary country

4. The evidence requirements referred to in regulation 3(e) are that—
- (a) the qualifying goods are accompanied by the documents or other evidence specified in a public notice given by HMRC Commissioners under paragraph 7(1)(b) of Schedule 1 to the Act, and
 - (b) the exporter of the goods has complied, to the satisfaction of an HMRC officer, with the applicable arrangements and obligations specified in a notice published by HMRC Commissioners relating to the provision of evidence of the origin of the goods.

HMRC notices of arrangements relating to the provision and verification of evidence

5. HMRC Commissioners may publish a notice relating to one or more of the following—
- (a) the replacement of any documents or other evidence referred to in regulation 4(a);
 - (b) the arrangements for verification of any evidence referred to in regulation 4(a);
 - (c) the arrangements and obligations relating to the provision of evidence of the origin of the goods referred to in regulation 4(b).

Wholly obtained goods

6.—(1) In Part 1 of the Act and in Column 3 of the table in Part 2 of Schedule 1, any reference to goods being wholly obtained in a country or territory includes the following specified cases—

- (a) mineral products extracted from the soil or seabed of the country or territory;
- (b) live animals born and raised in the country or territory;
- (c) products from live animals raised in the country or territory;
- (d) products from slaughtered animals born and raised in the country or territory;
- (e) products obtained by hunting, fishing or harvesting conducted in the country or territory;
- (f) products of aquaculture where the fish, crustaceans and molluscs are born and raised in the country or territory;
- (g) products of sea fishing and other products taken from the sea outside any territorial sea by vessels of the country or territory;
- (h) products made on board the factory ships of the country or territory exclusively from the products referred to in sub-paragraph (g);
- (i) used articles collected in the country or territory and fit only for the recovery of raw materials;
- (j) products extracted from the seabed or below the seabed which is situated outside any territorial sea provided the country or territory has exclusive exploitation rights;
- (k) goods produced in the country or territory exclusively from the things specified in sub-paragraphs (a) to (j).

(2) In paragraph (1)(g) and (h), “vessels of the country or territory” and “factory ships of the country or territory” apply only to vessels and factory ships which—

- (a) are registered in the beneficiary country or in the United Kingdom;
- (b) sail under the flag of the beneficiary country or the United Kingdom; and
- (c) are—
 - (i) at least 50% owned by nationals of the beneficiary country, the United Kingdom or a member State of the European Union; or

(ii) owned by bodies corporate which—

- (aa) have their head office and principal place of business in the beneficiary country, the United Kingdom or a member State of the European Union, and
- (bb) are at least 50% owned by public bodies or nationals of the beneficiary country, the United Kingdom or a member State of the European Union.

(3) For the purposes of intra-regional cumulation under regulation 16, the goods must be regarded as originating from the beneficiary country under whose flag the vessel or factory ship sails.

Processing: important stage of manufacture condition

7.—(1) Subject to the derogation in regulation 9(1), if the processing of goods meets the conditions specified for the goods in Schedule 1, that processing constitutes an important stage of manufacture.

(2) But the processing of goods only by one or more of the following operations does not constitute an important stage of manufacture—

- (a) preserving operations to ensure that the goods retain their condition during transport and storage;
- (b) the breaking up or assembly of packages;
- (c) washing, cleaning or the removal of dust, oxide, oil, paint or other coverings;
- (d) the ironing of textiles;
- (e) simple painting and polishing operations;
- (f) the husking or partial or total milling of rice or the polishing or glazing of cereals or rice;
- (g) operations to colour or flavour sugar or form sugar lumps or the partial or total milling of crystal sugar;
- (h) the peeling, stoning or shelling of fruits, nuts or vegetables;
- (i) sharpening, simple grinding or simple cutting;
- (j) sifting, screening, classifying, sorting, including the making-up of sets of articles;
- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) the affixing or printing of marks, labels, logos or other like distinguishing signs on goods or their packaging;
- (m) the simple mixing of goods, whether or not of different kinds or the mixing of sugar with any material;
- (n) the simple addition of water or dilution, dehydration or denaturation of goods;
- (o) the simple assembly of parts of articles to constitute a complete article or the disassembly of goods into parts;
- (p) the slaughtering of animals.

(3) An operation described in paragraph (2) is to be regarded as simple if no specialist skills or machines, apparatus or tools especially produced or installed for it are required for it to be carried out.

Averages

8.—(1) Where the conditions specified in the table in Part 2 of Schedule 1 refer to a maximum content of non-originating materials, this may be determined by reference to the average ex-works price charged for goods sold, and the average value of the non-originating materials used in the manufacture of the goods, during the reference period.

(2) An exporter who has applied a method of determination set out in paragraph (1) must apply the same method in respect of the fiscal year following the reference period.

(3) But the exporter may cease to apply that method if, during a given fiscal year or shorter period of at least three months, the exporter records that fluctuations in costs or currency rates which justified such a method have ceased.

(4) In this regulation—

“fiscal year” means the year, beginning with the same date each year, defined by the exporter;

“reference period” means the preceding fiscal year or, where figures for a complete preceding fiscal year are not available, a shorter period of at least three months.

Derogation in respect of use of non-originating materials

9.—(1) Non-originating materials which, according to the conditions set out in the table in Part 2 of Schedule 1, are not to be used in the manufacture of the goods, may nevertheless be used provided that—

(a) in relation to goods falling within any of Chapters 2 and 4 to 24 except processed fishery goods mentioned in Chapter 16, the net weight of the non-originating materials does not exceed 15% of the net weight of the goods;

(b) in relation to goods to which sub-paragraph (a) does not apply except goods falling within any of Chapters 50 to 63, for which the allowances mentioned in Notes 4 and 5 of Part 1 of Schedule 1 apply, the total value of the non-originating materials does not exceed 15% of the ex-works price of the goods; and

(c) the percentage for the maximum content of non-originating materials in relation to the goods as specified in the table in Part 2 of Schedule 1 is not exceeded.

(2) But paragraph (1) does not apply to goods which are to be regarded as wholly obtained in a beneficiary country under regulation 6.

(3) The allowance under the derogation in paragraph (1) applies to the sum of all the materials used in the manufacture of the goods where the condition in respect of those goods as set out in the table in Part 2 of Schedule 1 is that such materials be wholly obtained in the beneficiary country but this does not affect the application of regulations 7(2) and 10(1).

Consignments of identical goods and packaging

10.—(1) For the purposes of these Regulations, if a consignment consists of a number of identical goods classified under the same heading, each of the goods must be individually taken into account.

(2) If, under Rule 5 of the Goods Classification Table Rules of Interpretation specified in section 1 of Part Two of the Tariff of the United Kingdom, packaging is included with the goods for classification purposes, it must be included in determining the origin of the goods.

(3) In this regulation, “the Tariff of the United Kingdom” has the meaning given in regulation 1(2) of the Tariff Regulations.

Accessories, spare parts and tools

11. Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in its price or which are not separately invoiced are to be regarded as having the same origin as the piece of equipment, machine, apparatus or vehicle.

Sets

12. Goods in a set for retail sale are to be regarded as goods originating from a beneficiary country if—

- (a) all the components are originating materials, or
- (b) where the set is composed of a mixture of originating materials and non-originating materials, the value of the non-originating materials does not exceed 15% of the ex-works price of the set.

Neutral elements

13.—(1) In determining the origin of goods, neutral elements used to process, or used in the course of processing, the goods are to be disregarded.

(2) In this regulation, “neutral elements” means—

- (a) energy in the form of fuel, or in any other form;
- (b) plant or equipment, including machinery and tools;
- (c) materials which do not form part of, or are not integral to, the final composition of the goods.

Derogation in respect of specified goods

14.—(1) The Secretary of State may, by written notice, grant a temporary derogation in respect of specified goods from the provisions of these Regulations to a beneficiary country where one or both of the grounds set out in paragraph (2) are met.

(2) The grounds are that—

- (a) circumstances temporarily deprive the beneficiary country of the ability to meet the conditions set out in these Regulations for the goods to be regarded as originating from it;
- (b) the beneficiary country requires time to meet those conditions.

(3) A request for a temporary derogation by a beneficiary country under paragraph (1) must—

- (a) be made in writing to the Secretary of State by the beneficiary country, and
- (b) state the grounds as set out in paragraph (2)(a) or (b), or both, and provide evidence in support of the request, for the derogation.

(4) The duration of the temporary derogation must be limited to the duration of the effects of the circumstances giving rise to it or the length of time needed for the beneficiary country to meet the conditions referred to in paragraph (2)(a).

Bilateral cumulation with the British Islands, a British overseas territory, the European Union, Norway and Switzerland

15.—(1) Goods originating from the British Islands, a British overseas territory, the European Union, Norway or Switzerland are to be regarded as originating from a beneficiary country when incorporated into goods manufactured in that beneficiary country provided they have undergone processing in that beneficiary country that goes beyond the processing described in regulation 7(2).

(2) For the purposes of bilateral cumulation, these Regulations apply to exports from the British Islands, a British overseas territory, the European Union, Norway and Switzerland.

(3) But bilateral cumulation, so far as it concerns goods originating from Norway or Switzerland, does not apply in respect of goods listed in Chapters 1 to 24.

(4) In this regulation—

“bilateral cumulation” refers to the system whereby goods originating from the British Islands, a British overseas territory, the European Union, Norway or Switzerland are to be regarded as originating from a beneficiary country in the circumstances described in paragraph (1);

“British overseas territory” does not include Gibraltar or the Sovereign Base Areas of Akrotiri and Dhekelia.

Intra-regional cumulation: beneficiary countries in the same regional group

16.—(1) A beneficiary country (in this paragraph, “the cumulating GSP country”) may regard qualifying goods which under regulation 3 are to be regarded as originating from another beneficiary country in the same regional group as goods originating from the cumulating GSP country if—

- (a) the materials used in the goods are further processed in, or incorporated into, goods manufactured in the cumulating GSP country;
- (b) the materials used in the goods are not excluded under paragraph (3); and
- (c) the conditions set out in paragraph (4) are met.

(2) For the purposes of paragraph (1), goods exported from one beneficiary country to another for the purpose of intra-regional cumulation are to be regarded as originating from the last beneficiary country in which substantial processing of the goods has taken place, determined on the basis of the condition specified in the table in Part 2 of Schedule 1 that would apply if the goods were being exported to the United Kingdom.

(3) The materials listed in the second column of the table in Schedule 2 are to be excluded from intra-regional cumulation within a regional group marked “X” in the corresponding entry in the third or fourth column, or, as the case may be, in each of those columns, of that table if—

- (a) the GSP rate applicable in the United Kingdom under Part 6 of the TPS Regulations is not the same for all the countries or territories concerned, and
- (b) the materials concerned would benefit, through intra-regional cumulation, from a tariff treatment more favourable than the one from which they would benefit if directly exported to the United Kingdom.

(4) The conditions mentioned in paragraph (1)(c) are that—

- (a) each beneficiary country must comply with the conditions relating to customs cooperation and verification of proof of origin provided for by regulation 20 of the TPS Regulations;
- (b) the processing carried out in the beneficiary country where the materials are further processed or incorporated must go beyond the processing described in regulation 7(2); and
- (c) in the case of textile goods, in addition to meeting the condition set out in subparagraph (b), the processing carried out in the beneficiary country where the materials are further processed must go beyond one or more of the following—
 - (i) fitting of buttons or other types of fastenings;
 - (ii) making of button-holes;
 - (iii) finishing off the ends of trouser legs and sleeves or the bottom hemming of skirts and dresses and other apparel;
 - (iv) hemming of handkerchiefs, table linen and other textile articles;
 - (v) fitting of trimmings and accessories including pockets, labels and badges;
 - (vi) ironing and other preparations of garments for sale ready-made.

(5) Where the condition set out in paragraph (4)(b) is not met or, in the case of textile goods, where the conditions set out in paragraph (4)(b) and (c) are not met, the goods are to be regarded as originating from the beneficiary country participating in the intra-regional cumulation from which the largest share of the value of the materials used in the manufacture of the final goods originates.

(6) For the purposes of intra-regional cumulation, these Regulations apply to exports from one beneficiary country to another.

(7) In this regulation—

“intra-regional cumulation” refers to the system whereby a beneficiary country (“C”) may regard qualifying goods from another beneficiary country in the same regional group as goods originating from C in the circumstances described in paragraph (1);

“GSP rate” has the meaning given in regulation 2(1) of the TPS Regulations.

Inter-regional cumulation: beneficiary countries in different regional groups

17.—(1) A beneficiary country (in this regulation, “the cumulating GSP country”) may regard qualifying goods which under regulation 5 are to be regarded as originating from a beneficiary country in another regional group as goods originating from the cumulating GSP country if—

- (a) the materials used in the goods are further processed in, or incorporated into, goods manufactured in the cumulating GSP country;
- (b) the conditions set out in paragraph (2) are met; and
- (c) the Secretary of State has published a notice under paragraph (3).

(2) The conditions mentioned in paragraph (1)(b) are that—

- (a) each beneficiary country must comply with the conditions relating to customs cooperation and verification of proof of origin provided for by regulation 20 of the TPS Regulations;
- (b) the processing carried out in the beneficiary country where the materials are further processed or incorporated must go beyond the processing described in regulation 7(2);
- (c) in the case of textile goods, in addition to meeting the condition set out in subparagraph (b), the processing carried out in the beneficiary country where the materials are further processed or incorporated must go beyond one or more of the following—
 - (i) fitting of buttons or other types of fastenings;
 - (ii) making of button-holes;
 - (iii) finishing off the ends of trouser legs and sleeves or the bottom hemming of skirts and dresses and other apparel;
 - (iv) hemming of handkerchiefs, table linen and other textile articles;
 - (v) fitting of trimmings and accessories including pockets, labels and badges;
 - (vi) ironing and other preparations of garments for sale ready-made;
- (d) the cumulating GSP country must have submitted a written request for the purpose, and provided evidence, to the Secretary of State of trade benefits of allowing the inter-regional cumulation; and
- (e) the Secretary of State, after taking that evidence into account, is satisfied that there would be trade benefits in allowing the inter-regional cumulation.

(3) The Secretary of State may publish a notice specifying—

- (a) the beneficiary countries and goods in respect of which paragraph (1) applies;
- (b) the date from which the inter-regional cumulation may take effect; and
- (c) if the Secretary of State considers it appropriate, the materials in respect of which the inter-regional cumulation may apply.

(4) Where the condition set out in paragraph (2)(b) is not met or, in the case of textile goods, where the conditions set out in paragraph (2)(b) and (c) are not met, the goods are to be regarded as

originating from the beneficiary country participating in the inter-regional cumulation from which the largest share of the value of the materials used in the manufacture or the final goods originates.

(5) For the purposes of inter-regional cumulation, these Regulations apply to exports from one beneficiary country to another.

(6) In this regulation, “inter-regional cumulation” refers to the system whereby a beneficiary country (“C”) in a regional group may regard qualifying goods originating from a beneficiary country in another regional group as goods originating from C in the circumstances described in paragraph (1).

Extended cumulation

18.—(1) A beneficiary country (in this regulation, “the cumulating beneficiary country”) may regard qualifying goods originating from a country or territory in accordance with a trade arrangement between that country or territory to which none of regulations 15 to 17 may apply (in this regulation, “the TA country”) and the United Kingdom, implemented under section 9 of the Act (preferential rates: arrangements with countries or territories outside the UK), as goods originating from the cumulating beneficiary country if—

- (a) the materials used in the goods are further processed in, or incorporated into, goods manufactured in the cumulating beneficiary country;
 - (b) the conditions set out in paragraph (3) are met; and
 - (c) the Secretary of State has published a notice under paragraph (4).
- (2) Extended cumulation does not apply in respect of goods listed in Chapters 1 to 24.
- (3) The conditions mentioned in paragraph (1)(b) are that—
- (a) the processing carried out in the beneficiary country where the materials are further processed or incorporated must go beyond the processing described in regulation 7(2);
 - (b) the cumulating beneficiary country must have submitted a written request for the purpose, and provided evidence, to the Secretary of State of trade benefits of allowing the extended cumulation;
 - (c) the Secretary of State, after taking that evidence into account, is satisfied that there would be trade benefits in allowing the extended cumulation
 - (d) the TA country must have agreed to cooperate administratively with the cumulating beneficiary country.
- (4) The Secretary of State may publish a notice specifying—
- (a) the beneficiary countries in respect of which paragraph (1) applies;
 - (b) the date from which the extended cumulation may take effect;
 - (c) the countries concerned; and
 - (d) if the Secretary of State considers it appropriate, the materials in respect of which the extended cumulation may apply.

(5) In this regulation, “extended cumulation” refers to the system whereby a beneficiary country (“C”) may regard qualifying goods originating from a country or territory in accordance with a trade arrangement between that country or territory, to which none of regulations 15 to 17 may apply, and the United Kingdom, implemented under section 9 of the Act, as goods originating from C in the circumstances described in paragraph (1).

Requirements relating to the originating status of returned goods

19. If goods exported from a country or territory (“the exporting country”) to another country or territory (“the importing country”) have been returned to the exporting country, they are to be regarded as not originating from the exporting country unless it can be demonstrated to the satisfaction of an HMRC officer that the returned goods—

- (a) are the same as those which were exported, and
- (b) have not undergone any operations beyond those necessary to preserve their condition while in a country other than the exporting country or during transportation.

Non-manipulation requirements in relation to goods

20.—(1) The requirements mentioned in regulation 3(c) are that the goods—

- (a) must be the same goods as were exported from the beneficiary country;
- (b) must not have been altered or transformed in any way; and
- (c) must not have been subjected to any operation other than—
 - (i) to preserve their condition, or
 - (ii) the adding or affixing of marks, labels, seals or any other documentation to ensure compliance with legal requirements applicable in the United Kingdom or any part of the United Kingdom.

(2) Goods may only be imported into a country or territory for the purpose of bilateral, intra-regional, inter-regional or extended cumulation under regulation 15, 16, 17 or 18 respectively if—

- (a) they are the same goods as were exported from the country or territory from which they originate;
- (b) they have not been altered or transformed in any way; and
- (c) they have not been subjected to any operation other than to preserve their condition.

(3) Goods may be stored, and consignments split up by or on behalf of the exporter, in a transit country or territory provided the goods are at all times under customs supervision in the transit country or territory.

(4) To enable an HMRC officer to verify that the requirements set out in paragraphs (1) to (3) have been met, the declarant must, if required, provide relevant evidence including any contractual transport documents (including bills of lading), evidence based on the marking or numbering of packages and other evidence related to the goods themselves.

Accounting segregation of exporters’ stocks of fungible materials

21.—(1) If fungible originating materials and fungible non-originating materials are used in the processing of goods, HMRC may, at the written request of an exporter established in the customs territory of the United Kingdom, authorise the management of the materials in the United Kingdom using the accounting segregation method for the purpose of subsequent export to a beneficiary country within the framework of bilateral cumulation, without keeping the materials on separate stocks.

(2) HMRC may make the granting of the authorisation referred to in paragraph (1) subject to any conditions they deem appropriate but may grant it only if, by use of the method referred to in paragraph (1), it can be ensured that, at any time, the quantity of goods obtained which could be regarded as originating from the United Kingdom is the same as the number that would have been obtained by using a method of physical segregation of the stocks.

(3) If authorised, the method must be applied and its application recorded on the basis of the general accounting principles applicable in the United Kingdom.

(4) The exporter must apply for proofs of origin for the quantity of goods which may be regarded as originating from the British Islands and must, if required, provide a statement as to how the quantities have been managed.

(5) In paragraph (1)—

“bilateral cumulation” has the meaning given in regulation 15(4);

“fungible” means, in relation to materials, materials which, once incorporated into the finished goods—

- (a) are of the same kind and commercial quality;
- (b) have the same technical and physical characteristics; and
- (c) cannot be distinguished from each other.

At 12.30 p.m. on 15th December 2020

David Rutley
Maggie Throup
Two of the Lords Commissioners of Her
Majesty’s Treasury